

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Board of Patent Appeals and Interferences

In re Patent Application of

WALTER

Serial-No. 09/807,617

Filed: May 14, 2001

Title: REHABILITATION DEVICE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Atty Dkt.: 265-97

C# M#

TC/A.U.: 3764

Examiner: J. Donnelly

Date: August 11, 2004

Sir:

☐ Correspondence Address Indication Form Attached.

☒ **NOTICE OF APPEAL**

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the last decision of the Examiner twice/finally rejecting applicant's claim(s). (\$ 330.00) \$ 330.00

☐ An appeal BRIEF is attached in triplicate in the pending appeal of the above-identified application (\$ 330.00) \$

☐ Credit for fees paid in prior appeal without decision on merits -\$ ()

☐ A reply brief is attached in triplicate under Rule 193(b) (no fee)

☐ Petition is hereby made to extend the current due date so as to cover the filing date of this paper and attachment(s) (\$110.00/1 month; \$420.00/2 months; \$950.00/3 months; \$1480.00/4 months) \$

☒ Applicant claims "Small entity" status, enter 1/2 of subtotal and subtract
☐ "Small entity" statement attached. SUBTOTAL \$ 330.00
-\$ (165.00)

SUBTOTAL \$ 165.00

Less month extension previously paid on -\$ (0.00)

TOTAL FEE ENCLOSED \$ 165.00

Any future submission requiring an extension of time is hereby stated to include a petition for such time extension. The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

1100 North Glebe Road, 8th Floor
Arlington, Virginia 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100
AMK:jls

NIXON & VANDERHYE P.C.
By Atty: Alan M. Kagen, Reg. No. 36,178

Signature: Paul Bowen (PAUL BOWEN)
Reg. No. 38009

08/12/2004 SSITHIB1 00000013 09807617

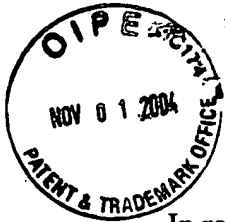
01 FC:2401 165.00 OP

Adjustment date: 12/10/2004 SDIRETA1
08/12/2004 SSITHIB1 00000013 09807617
01 FC:2401 -165.00 OP

BEST AVAILABLE COPY

871468

Repln. Ref: 12/10/2004 SDIRETA1 0010104100
DAH:141140 Name/Number:09807617
FC: 9204 \$165.00 CR



DIVISION

Dep & Ref
Room # 307

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

NOV -3 PM 4:19

In re Patent Application of

WALTER

Atty. Ref.: 265-97

Serial No. 09/807,617

Group: 3764

Filed: May 14, 2001

Examiner: J. Donnelly

For: REHABILITATION DEVICE

* * * * *

November 1, 2004

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REQUEST FOR REFUND OF NOTICE OF APPEAL FEE

An Amendment After Final Rejection was filed at the Patent Office window on June 14, 2004. The MPEP provides that such Amendments are typically considered within ten (10) days after receipt by the Examiner. See, MPEP §714.13, providing that "Any amendment timely filed after a final rejection should be immediately considered to determine whether it places the application in condition for allowance or in better form for appeal. An examiner is expected to turn in a response to an amendment after final rejection within 10 calendar days from the time the amendment is received by the examiner. A reply to an amendment after final rejection should be mailed within 30 days of the date the amendment is received by the Office." Emphasis added.

After several months and repeated failed attempts to contact Examiner Donnelly and Examiner Donnelly's supervisor, Applicant was forced to file a Notice of Appeal in

BEST AVAILABLE COPY

895091

WALTER
Serial No. 09/807,617

2004 NOV -3 PM 4:19

order to maintain pendency of the application in the event the application was not allowed. Subsequently, a Notice of Allowance was mailed on October 4, 2004, almost four (4) months after filing the Amendment After Final.

In view of the above, due to the Patent Office delay in handling this matter, Applicant requests a refund of \$165.00 for the Notice of Appeal Fee.

Respectfully submitted,
NIXON & VANDERHYE P.C.

By: Alan M. Kagen

Alan M. Kagen
Reg. No. 36,178

AMK:jls
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100

BEST AVAILABLE COPY